

REMARKS

Applicants respectfully request reconsideration in view of the amendments set forth above and the arguments set forth below. Claims 1, 3, 4, 6, and 8-12 were pending. With the present Response Claims 1, 10 and 12 are amended and new Claims 18-25 are added; therefore, Claims 1, 3, 4, 6, 8-12 and 18-25 remain pending for consideration. Although the Applicants respectfully disagree with the rejections and do not acquiesce, the Applicants have amended the claims in order to expedite prosecution. The Applicants reserve the right to pursue previous versions of all claims in one or more future patent applications.

Claims 1, 3, 4, 6, and 8-12 Distinguish Over Gunaratnam

The Office Action rejects claims 1, 3, 4, 6, and 8-12 under 35 U.S.C. § 102(e) as anticipated by U.S. patent no. 7,066,178 to Gunaratnam et al. ("Gunaratnam"). In particular, the Office Action states that Gunaratnam "discloses a CPAP device . . . comprising a mask . . . , an outlet member in the form of a cover . . . , such that the separation between the mask and the cover increases to the edge of said cover..." (Office Action at page 3). The Office Action further states, "Applicant's argument that Gunaratnam does not disclose that the separation between the mask and the cover increases to the edge of the cover but instead discloses that the separation decreases is not persuasive because the cover has multiple edges, therefore if the separation decreases from one edge to another then it must also increase in the opposite direction." (Office Action at page 3). While Applicants respectfully disagree with the rejection, Claims 1, 10, and 12 have been amended in order to clarify applicant's invention and expedite prosecution. Indeed, Claims 1, 10, and 12 distinguish over the applied art because the applied art fails to teach or suggest the all the claims' language.

Claims 1, 10, and 12 describe devices comprising, among other things, a mask and a cover, wherein "a separation between said mask and said cover increases at a location between the slot and an edge of said cover where the gases exit the outlet vent" Figure 10 below (left) illustrates the separation between the mask 200 and the cover 205 increasing at a location between the slot 204 and an edge of the cover 205 where the gases exit the outlet vent 208. This feature allows the velocity of the gases passing through outlet vent to reduce because the cross-

sectional area of the gas flow increases as it moves out of the cover. Reducing the gases velocity helps reduce the noise generated from the air flow.

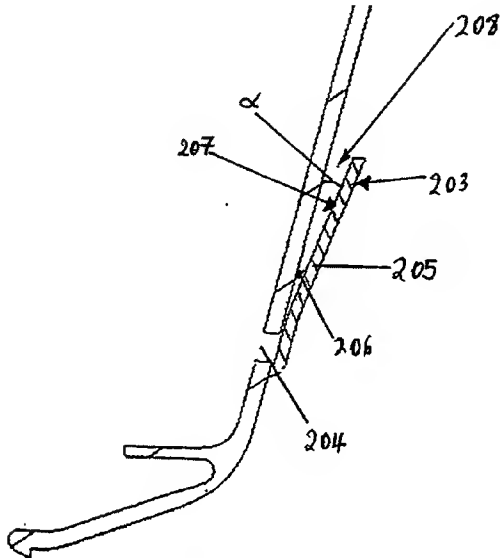


Figure 10

Applicants' Fig. 10

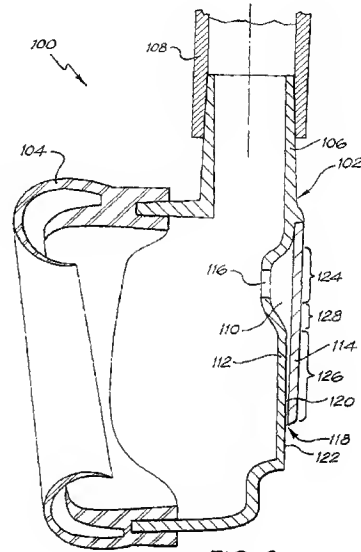


FIG. 8

Gunaratnam Fig. 8

The Gunaratnam patent does not disclose the feature discussed above. As shown in Fig. 8 from Gunaratnam above (right), in contrast to the language of Claims 1, 10, and 12, the separation between Gunaratnam's mask 100 and cover 114 either *reduces* or *stays constant* at a location between the slot 116 and an edge of said cover 114 where the gases exit the outlet vent 118. Gunaratnam's Fig. 8 clearly shows that Gunaratnam does not disclose the increasing separation claimed by Applicants, for example, as shown by Applicants in Fig. 10. As such, Gunaratnam does not disclose all the features of Claims 1, 10, and 12.

Claims 1, 10, and 12 distinguish over the applied art for at least these reasons. Claims 3, 4, 6, 8, and 9 depend from Claim 1, and Claim 11 depends from Claim 10. Therefore, Claims 3, 4, 6, 8, 9 and 11 distinguish over the applied art for at least the same reasons articulated above with respect to their corresponding independent claims. Claims 3, 4, 6, 8, 9, and 11 also distinguish over the applied art due to the unique combinations of features recited in those claims.

Application No.: 10/570,226
Filing Date: November 1, 2006

New Claims 18-25

New Claims 18-25 find support throughout the application as originally filed. Therefore, Applicants believe that no new matter is introduced with these claims. In addition, new Claims 18-25 depend from Claim 1, 10, and 12 which distinguish over the applied art for at least the reasons recited above. Therefore, Claims 18-25 distinguish over the applied art for at least the same reasons, as well. Furthermore, Claims 18-25 distinguish over the applied art for the unique combinations of features recited in those claims

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that this application is in condition for allowance and such action is respectfully requested. If any issues remain or require further clarification, the Examiner is respectfully requested to call Applicants' counsel at the number indicated below in order to resolve such issues promptly.

Application No.: 10/570,226
Filing Date: November 1, 2006

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 7, 2010

By: Andrew I. Kimmel/

Andrew I. Kimmel
Registration No. 58,855
Attorney of Record
Customer No. 20995
(949) 760-0404